

### **REMARKS**

Claims 1-9, 11, and 13-17 are pending in the application. Claims 6-9 and 11 are withdrawn. Claims 1, 13 and 17 have been amended. Applicant reserves the right to pursue the original and new claims in this and other applications.

Claims 1-5 and 13-17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,505,715 to Shah et al. (hereinafter “Shah”). Applicant respectfully traverses the rejection.

Independent claim 1 recites a “[n]eutral electrode for high frequency (HF) surgery ... comprising a temperature independent circulation-promoting means adapted to enhance blood flow, without regard to the temperature, at least through the portion of the patient’s body in contact with said at least one electrically conductive section.”

Independent claim 13 recites a “neutral electrode for use in high frequency (HF) surgery, comprising: at least one electrically conductive section for contacting a patient’s body, wherein the at least one electrically conductive section is coated with a gel containing a circulation promoting agent as a circulation promoting means adapted to enhance blood flow at least through said body portion in contact with said at least one electrically conductive section to reduce a contact resistance between said conductive section and said body portion.”

Independent claim 16 recites a “neutral electrode for use in high frequency (HF) surgery, comprising: at least one electrically conductive section for contacting a patient’s body, wherein said section is coated with a conductive gel to improve the contact between said section and said portion of the patient’s body and wherein said gel incorporates a substance that contains a circulation promoting agent as a circulation promoting means adapted to enhance blood flow at least through said body portion in contact with said at least one electrically conductive section.”

Independent claim 17 recites a “[n]eutral electrode for high frequency (HF) surgery ... comprising a circulation-promoting means adapted to enhance blood flow, without regard to the

temperature, at least through the portion of the patient's body in contact with said at least one electrically conductive section, wherein said circulation-promoting means comprises a substance that contains a circulation-promoting agent."

The present invention, as claimed, relates to a neutral electrode for use in high frequency surgery. The neutral electrode has a circulation promoting means which is adapted to enhance blood flow/promote circulation. In some exemplary claimed embodiments of the invention, the blood flow is enhanced irrespective of the temperature of the circulation promoting means. The enhancement of blood flow reduces the contact resistance between the neutral electrode and the body.

Shah relates to a system and method for non-invasively delivering deoxyspergualin ("DSG") at a flux sufficient to achieve a therapeutic dose, especially in the suppression of immune activity. More particularly, the Shah invention relates to a device which can provide chronic and convenient out-patient administration of DSG. In one embodiment of Shah, an agent for reducing skin irritation may be included with the DSG (e.g., bisabolol, methyl nicotinate or capsaicin). Shah does not discuss using any circulation promoting agents nor does Shah identify capsaicin as a circulation promoting agent. Shah fails to relate to a neutral electrode for use in high frequency surgery and/or as a neutral electrode having a circulation promoting means which is adapted to enhance blood flow/promote circulation and reduce contact resistance.

Accordingly, Shah does not teach a "[n]eutral electrode for high frequency (HF) surgery ... comprising a temperature independent circulation-promoting means adapted to enhance blood flow, without regard to the temperature, at least through the portion of the patient's body in contact with said at least one electrically conductive section," as recited in independent claim 1; a "neutral electrode for use in high frequency (HF) surgery, comprising: at least one electrically conductive section for contacting a patient's body, wherein the at least one electrically conductive section is coated with a gel containing a circulation promoting agent as a circulation promoting means adapted to enhance blood flow at least through said body portion in contact with said at least one electrically conductive section to reduce a contact resistance between said conductive section and said body

portion,” as recited in independent claim 13; a “neutral electrode for use in high frequency (HF) surgery, comprising: at least one electrically conductive section for contacting a patient’s body, wherein said section is coated with a conductive gel to improve the contact between said section and said portion of the patient’s body and wherein said gel incorporates a substance that contains a circulation promoting agent as a circulation promoting means adapted to enhance blood flow at least through said body portion in contact with said at least one electrically conductive section,” as recited in independent claim 16; and a “[n]eutral electrode for high frequency (HF) surgery ... comprising a circulation-promoting means adapted to enhance blood flow, without regard to the temperature, at least through the portion of the patient’s body in contact with said at least one electrically conductive section, wherein said circulation-promoting means comprises a substance that contains a circulation-promoting agent,” as recited independent claim 17.

Claims 2-5 and 15 depend from claim 1 and are allowable for at least the reasons mentioned above, and claims 14 depends from claim 13 and is allowable for at least the reasons mentioned above. Applicant respectfully requests withdrawal of the rejection.

Claims 1, 3, 4 and 17 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,544,258 to Fleenor et al. (hereinafter “Fleenor”). Applicant respectfully traverses the rejection.

Fleenor relates to an improved return electrode. The problem Fleenor attempts to solve is the elimination of patient burns without the need for disposable electrodes and monitoring circuits. *See* Fleenor at col. 4 lines 21-27. One embodiment of Fleenor, illustrated in FIG. 22 and discussed in detail starting at col. 27, line 13, relates to an electrode having a sleeve and pump assembly. The sleeve provides heating and cooling characteristics to the patient through the electrode. *Id.* at col 27, lines 20-29. An interior chamber of the electrode is filled with a material capable of being heated and/or cooled. The material is input into the interior chamber through an input end and output from an output end of the chamber. *Id.* at col. 27, lines 49-56. A pump is used to circulate material through the sleeve. However, Fleenor fails to teach increasing the circulation of the patient by a means that does not involve changing the temperature. Fleenor does not teach

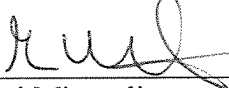
any means for increasing blood flow for which the temperature is irrelevant. Accordingly, Fleenor fails to teach “a temperature independent circulation-promoting means adapted to enhance blood flow, without regard to the temperature, at least through the portion of the patient’s body in contact with said at least one electrically conductive section,” as recited in independent claim 1 and “a circulation-promoting means adapted to enhance blood flow, without regard to the temperature, at least through the portion of the patient’s body in contact with said at least one electrically conductive section, wherein said circulation-promoting means comprises a substance that contains a circulation-promoting agent,” as recited in independent claim 17. Claims 3 and 4 depend from claim 1 and are allowable for at least the reasons mentioned above. Applicant respectfully requests withdrawal of the rejection.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being obvious over Fleenor in view of U.S. Patent No. 4,387,714 to Geddes et al. (hereinafter “Geddes”). The rejection is respectfully traversed. Claim 2 depends from claim 1 and is allowable over Fleenor for at least the reasons mentioned above with respect to claim 1. Geddes fails to overcome the deficiencies of Fleenor. Accordingly, Applicant respectfully requests withdrawal of the rejection.

In view of the above, Applicant believes the pending application is in condition for allowance. Favorable action on the merits is earnestly solicited.

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